

EXHIBIT D

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
C.A. NO. 09-11705-NG

JONATHAN GREEN
Plaintiff

v.

CITY OF BOSTON; EDWARD DAVIS, in his
capacity as Chief of the Boston Police
Dept.; TIMOTHY McCARTHY, individually
and in his official capacity as an
Employee, Agent, and/or Officer of
the Boston Police Department
Defendants

DEPOSITION OF JONATHAN GREEN

Tuesday, August 16, 2011, 10:40 a.m.

CITY OF BOSTON LAW DEPARTMENT

Room 615, City Hall

Boston, Massachusetts 02201

-- Ivy L. Natanson, RPR/CSR --

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(Exhibits retained by counsel.)

1 A. No.

2 Q. Why don't you just tell me what happened when
3 you arrived at the 7-Eleven.

4 A. Well, I went in the 7-Eleven to purchase some
5 items and I noticed a clerk or store manager
6 watching and following some kids. So when
7 they approached the counter to pay for their
8 items, I addressed them and I asked them why
9 would they purchase anything from a store
10 where they were being watched and followed
11 around.

12 Suddenly, my conversation was interrupted
13 by a white male who was standing to my left,
14 and he asked me why I was concerned what was
15 taking place. And my response back was that
16 the conversation had nothing to do with him
17 and that I was talking to the boys.

18 Q. Okay. I just want to stop you there. We'll
19 get to the rest. I'm going to break that down
20 a little bit. Who was following the kids?

21 A. As I said, I believed it was the manager or a
22 clerk.

23 Q. Male or female?

24 A. It was a male.

1 Q. Ethnicity?

2 A. I would say Asian.

3 Q. Was he older or younger?

4 A. I would say a middle-aged guy.

5 Q. What do you mean by following them around the
6 store?

7 A. Well, just kind of walking around everywhere
8 they were.

9 Q. Do you recall how close he got to the kids?

10 A. I don't.

11 Q. Was there anybody that you noticed that was
12 watching the kids?

13 A. Just him.

14 Q. Just the older male clerk?

15 A. Yeah.

16 Q. How many kids was it that you saw?

17 A. I think it was -- I think it was three.

18 Q. Had you seen them before?

19 A. Never.

20 Q. How old approximately were they?

21 A. I would say between maybe 13, 14, that age
22 range.

23 Q. High school?

24 A. No, I wouldn't say high school. I would

1 probably say like maybe eighth grade, possibly
2 going into high school.

3 Q. Did you notice if they were supervised by
4 anybody?

5 A. No, they weren't.

6 Q. When you addressed the kids and you asked them
7 why would they want to purchase these items in
8 this store, did they respond to you?

9 A. Yes.

10 Q. What did they say?

11 A. Well, they turned around. I got their
12 attention. And before I can pretty much get a
13 response from them, that's when the
14 conversation was interrupted. So my attention
15 went to the person to my left.

16 Q. Who was the person to your left?

17 A. I don't know who he was. He's just another
18 guy that, you know, was in the store, came in
19 the store.

20 Q. Today, do you now know that to be Officer
21 Timothy McCarthy?

22 A. Yes.

23 Q. What was the first thing that Officer McCarthy
24 said to you?

1 you know him to be a police officer?

2 A. No.

3 Q. You had no indication he was a police officer?

4 A. No.

5 Q. What was Officer McCarthy wearing?

6 A. He had on a baseball shirt.

7 Q. Do you recall what kind of pants he was
8 wearing?

9 A. I didn't -- I don't.

10 Q. Was he wearing a hat?

11 | A. No.

12 Q. What were you wearing?

13 A. I had on a white sports jersey. I think I had
14 on sweat pants.

15 Q. What kind of shoes were you wearing?

16 A. I had on some kind of track sneakers.

17 Q. Your shirt, was that short sleeve, sleeveless?

18 A. It was a long sleeve.

19 Q. Long sleeve. Why don't you continue. You
20 finished with saying this had nothing to do
21 with him. What happened next?

22 A. I went to start my conversation back again
23 with the boys and he interrupted the
24 conversation a second time, and I basically

1 repeated the same thing, that he was
2 interrupting my conversation with the boys and
3 that I was not preventing him from stepping to
4 the counter to take care of his business.

5 Q. What did he say to you when he interrupted you
6 the second time?

7 A. He basically repeated himself.

8 Q. Did he raise his voice?

9 A. No.

10 Q. Did you raise your voice?

11 | A. No.

12 Q. At this point in time, had either of the
13 employees at the counter said anything?

14 A. No.

15 Q. What happened after you told Officer McCarthy
16 that you weren't preventing him to go to the
17 counter?

18 A. He -- at that point he opened up his shirt
19 exposing his badge and his uniform and he
20 identified himself as a police officer, and he
21 went to the counter and paid for his items.

22 Q. When you say he opened his shirt, do you mean
23 he unbuttoned it or did he lift it?

24 A. He opened it. The shirt was open.

1 Q. Where was his badge?

2 A. His badge, I think, was on his left.

3 Q. So it was pinned to his shirt?

4 A. Yeah.

5 Q. It wasn't on a necklace?

6 A. Not that I recall, on a necklace.

7 Q. What happened after he went to the counter to
8 pay for his items?

9 A. Thereafter he turned to me and he asked was I
10 purchasing any items, and I responded that I
11 was not going to buy anything from a store
12 where, you know, personnel follow kids around,
13 you know, like they were gonna steal
14 something. He then asked me to leave the
15 premises, to leave the store, and I said I had
16 no problem and I left.

17 Q. When Officer McCarthy turned to you and asked
18 you if you were going to purchase any items,
19 did you have any items in your hands?

20 A. I didn't have any items in my hands, but I had
21 the stuff that I had with me from the gym,
22 which was an over-the-shoulder bag, I had my
23 keys, my cell phone and I had a bottle of -- a
24 drink that I had previously bought.

1 Q. From a different location?

2 A. From a different location.

3 Q. So all of these were your personal items?

4 A. All my personal items.

5 Q. How long, if you recall, did it take Officer
6 McCarthy to pay for his items at the counter?

7 A. Not long.

8 Q. As soon as he was done, was it immediate that
9 he turned to you and asked you if you were
10 going to purchase items?

11 A. Yes.

12 Q. And then as soon as you said that you weren't
13 going to purchase any items from the store he
14 immediately asked you to leave the premises?

15 A. Yes.

16 Q. And you complied?

17 A. I did.

18 Q. After he asked you to leave the premises, how
19 much longer did you stay in the store?

20 A. I walked right out.

21 Q. When he asked you to leave the premises, did
22 you -- I'm sorry, did he raise his voice to
23 you?

24 A. No.

1 Q. And your last remark to Officer McCarthy while
2 in the store was that you had no problem
3 leaving?

4 A. I had no problem.

5 Q. At this point were the kids still in the store
6 or had they left?

7 A. If I can recall, I think the kids had left.

8 Q. While this was going on inside the store, were
9 there any other customers besides the kids,
10 yourself, and Officer McCarthy?

11 A. Yeah, there were.

12 Q. Could you estimate how many?

13 A. No, I couldn't.

14 Q. Do you recall if they were in close proximity
15 to what was taking place at the counter
16 between you and Officer McCarthy?

17 A. I couldn't tell.

18 Q. Did any of them, the other customers, say
19 anything to you?

20 A. No.

21 Q. What happened after you walked out of the
22 store?

23 A. I stepped off the sidewalk and I began to make
24 a cell phone call, and as I was on the cell

1 phone I saw him coming out of the store so I
2 asked him what was his name and out of which
3 department did he work, and he told me his
4 name was Officer McCarthy and that he worked
5 out of -- I think it was Area 4, D4.

6 Q. I want to back up for one quick moment. How
7 much time passed from when you entered the
8 store to when you left the store?

9 A. I really couldn't tell.

10 Q. More than ten minutes?

11 A. I don't know. I really couldn't tell.

12 Q. Do you recall how much time you were in the
13 store before Officer McCarthy approached you?

14 A. I would say maybe about five minutes.

15 Q. When you stepped out on the sidewalk after
16 leaving the store, where in proximity to the
17 door of the store were you?

18 A. I was off the sidewalk in the street, not out
19 in the middle of the street, just right off
20 the sidewalk. So I wasn't anywhere close to
21 the front entrance.

22 Q. Now, the sidewalk in front of that store, is
23 it sidewalk, and then curb, and then street?

24 A. Well, it's kind of funny because you have

1 five. Just I don't know. I guess normal,
2 maybe starting to get like it normally does
3 around that time.

4 Q. What day of the week was it, if you recall?

5 A. Don't recall the day. I know it was a nice
6 day out.

7 Q. Are you able to put north/south, east/west on
8 here? It's okay. I'm terrible at directions,
9 so if you can't, I understand.

10 A. No. Because I'm not really -- I don't know.
11 Not really sure how it would --

12 Q. Don't worry about it. Okay. You said you
13 stepped out to make a phone call. Who were
14 you calling?

15 A. I think I called my voice mail at my home.

16 Q. Did you have an answering service at your
17 home?

18 A. Yes.

19 Q. So was this an answering service to a land
20 line at your home?

21 A. To my home line.

22 Q. Why did you call your voice mail?

23 A. I was just checking my messages.

24 Q. Did you have messages?

1 A. Not that I recall.

2 Q. How long were you on the phone?

3 A. I would probably say maybe 15 seconds, maybe a
4 little bit longer.

5 Q. At the time, what was the cell phone number
6 for the phone that you were using?

7 A. It's the same as I have now, 617-304-0169.

8 Q. At that time who was your cell service
9 provider?

10 A. Sprint.

11 Q. Is that who you're currently with?

12 A. Uh-huh.

13 Q. And what at the time was the land-line number
14 that you were calling to your home?

15 A. 617-236-1449.

16 Q. When you asked Officer McCarthy for his ID,
17 his badge number, his name, were you still on
18 the phone at that time?

19 A. Not that I recall.

20 Q. How much time had passed from when you stepped
21 outside to when Officer McCarthy stepped
22 outside?

23 A. I would say maybe about close to maybe 15
24 seconds, maybe a little bit longer, a little

1 bit shorter. Yeah, I would say about that
2 range.

3 Q. So please tell me if I'm correct. You make
4 the phone call to your voice mail, it's about
5 15 seconds, you don't have any messages, you
6 hang up, and then you see Officer McCarthy?

7 A. Well, I just had my vision on that area
8 because I was right outside in the front so I
9 just happened to see him coming out.

10 Q. And you saw him after you had ended your phone
11 call?

12 A. Sort of kind of like simultaneously, at the
13 same time.

14 Q. When you were making the phone call, you were
15 dialing, which direction were you facing?

16 A. Well, I was on the -- in the street a little
17 bit. I wasn't looking up. I was sort of
18 still facing the area of the store.

19 Q. So you could still see the door?

20 A. I could still see the door, yeah.

21 Q. And when Officer McCarthy came out, did he
22 walk away from you or did he walk towards you?

23 A. He really didn't walk towards me. He just
24 kind of came out and was just like there and,

1 you know, whatever his intentions were or
2 wherever he was going, I asked him what was
3 his name and, you know, what area he worked
4 out of.

5 Q. So he stopped because you asked him to
6 identify himself?

7 A. Yes.

8 Q. And how did he respond to your request?

9 A. He gave me his name, Officer Timothy McCarthy,
10 I think he said his first name along with his
11 last name, and told me what station he worked
12 out of.

13 Q. Did you write that down anywhere?

14 A. No.

15 Q. Did you record it in any way?

16 A. Not to my knowledge, no.

17 Q. Did you record anything on your cell phone?

18 A. Not to my knowledge, no.

19 Q. How far away from you was Officer McCarthy
20 when this particular exchange was going on?

21 A. I would say pretty much that same distance,
22 maybe about, you know, eight steps away, seven
23 steps away. He was still kind of in front of
24 the store near the door and I was still

1 standing off the sidewalk.

2 Q. Were you far enough away from each other that
3 neither of you could touch each other?

4 A. Yes.

5 Q. Was your voice raised at this time?

6 A. No.

7 Q. How about Officer McCarthy, was his voice
8 raised when he answered?

9 A. No.

10 Q. What happened after Officer McCarthy answered?

11 A. I stepped back on the sidewalk to organize the
12 stuff I was carrying, which was my phone, my
13 keys, the bottle I had in my hands, and the
14 over-the-shoulder bag.

15 Q. When you asked Officer McCarthy for his name
16 and where he worked, what were your intentions
17 at that time to do with that information?

18 A. I just wanted to have the information.

19 Q. At that time did you have any intention of
20 filing a complaint?

21 A. Not necessarily.

22 Q. Considered it?

23 A. Possibly.

24 Q. Have you ever filed a complaint against

1 my attorney.

2 Q. Like a court complaint to file a lawsuit?

3 A. Yeah. I think it was all kind of combined
4 together.

5 Q. Aside from this case, have you ever filed an
6 internal affairs complaint with any police
7 department?

8 A. No.

9 Q. You said you stepped on the sidewalk to
10 organize your stuff. Does that mean you
11 stepped towards the store?

12 A. Just back onto the sidewalk. I was in the
13 street and I just stepped back on the sidewalk
14 just to get out of the street.

15 Q. And at this point, what was Officer McCarthy
16 doing as you were organizing your things?

17 A. I wasn't really paying attention to him
18 anymore after that. I stepped on the
19 sidewalk, like I said, to organize the stuff
20 that I had and I was kind of bent over and he
21 took a few steps towards me and, you know,
22 told me to start walking and to leave the
23 area. I was unsure of his intentions, so I
24 straightened up my posture to watch him and

1 Q. So while you were organizing your stuff, did
2 you hear him first or did you see him first?

3 A. I kind of saw and heard kind of at the same
4 time.

5 Q. And that's when he told you to leave the area?

6 A. And start walking, yes.

7 Q. Aside from organizing your belongings on the
8 sidewalk, were you doing anything else at that
9 point?

10 A. No.

11 Q. Were you blocking the front door of the store?

12 A. No. I was nowhere near the front entrance of
13 the store.

14 Q. Do you recall if any customers exited or
15 entered the store during that time?

16 A. Yes.

17 Q. They did?

18 A. Yes.

19 Q. Do you know how many?

20 A. I don't.

21 Q. When Officer McCarthy told you to leave the
22 area, start walking, was his voice raised?

23 A. Not that I can recall.

24 Q. How close was he to you when he told you to

1 leave the area?

2 A. I would say maybe about five or four steps
3 away, kind of walking back towards my
4 direction.

5 Q. Did he use any gestures to you with his hands?

6 A. Not that I can recall.

7 Q. Okay. What happened after he told you to
8 leave the area? I'm sorry. Back up. Strike
9 that. You said you had a bottle in your hand?

10 A. Uh-huh.

11 Q. What kind of bottle?

12 A. I had a juice bottle.

13 Q. A glass bottle?

14 A. Yes.

15 Q. And what caused you to drop the bottle?

16 A. Well, again, like I said, I was unsure of, you
17 know, his intentions so, you know, when
18 straightening my posture and watching, it just
19 slipped out of my hand and just fell and broke
20 on the ground.

21 Q. Shattered?

22 A. Yeah, just hit the ground and like exploded.

23 Q. Was there still liquid content in it?

24 A. Yeah, there was a little.

1 Q. Okay. Now, please, what happened after he
2 told you to leave the area?

3 A. And I just basically said to him that, you
4 know, I lived in the neighborhood here on
5 Saint Botolph Street and pointed in the area
6 where I live.

7 Q. And then what?

8 A. And as I was about to walk across West Newton
9 Street, he grabbed my jersey from behind my
10 back, and I turned and asked him why did he
11 grab and assault me.

12 Q. So you pointed to the area in which you lived?

13 A. Uh-huh.

14 Q. And then did you turn around to face your
15 apartment building?

16 A. Yes, to walk across West Newton Street.

17 Q. So you intended on crossing the street?

18 A. Uh-huh.

19 Q. Is there a crosswalk here like with the white
20 lines?

21 A. You know what, I can't recall if there is.
22 But you definitely have to look because of the
23 way the intersection is.

24 Q. Of course. So how many steps did you get

1 before you felt Officer McCarthy grab you?

2 A. I would say about maybe two.

3 Q. Where on your back did he grab you?

4 A. If I'm correct, back here.

5 Q. So is it your lower back?

6 A. Yeah, I would say just kind of like in this
7 area here.

8 Q. So on your lower right portion of your back?

9 A. Yeah, the jersey.

10 Q. So did he just grab your shirt or did he get
11 skin as well?

12 A. He grabbed the shirt, a good portion of the
13 shirt.

14 Q. And when you went to turn when he grabbed you
15 on your right lower back, which direction did
16 you turn?

17 A. I think I turned to the right.

18 Q. You turned to the right. And so then you said
19 to him, Why did you grab me?

20 A. Yes.

21 Q. At this point was your voice raised?

22 A. I would say probably just a little bit.

23 Q. How did he respond?

24 A. I'm not sure if he did.

1 Q. What happened next?

2 A. I tried to walk away, and he grabbed me by my
3 lower right arm, which was down by my side,
4 and I repeated my question, Why are you
5 grabbing and continuing to assault me?

6 Q. After he grabbed your shirt, did he tell you
7 to stop before you tried to walk away?

8 A. He didn't say anything, to my recollection.

9 MS. HINKLEY: We're going to take a
10 little break.

11 MR. SPENCER: Okay.

12 (Off the record.)

13 MS. HINKLEY: Back on the record.

14 Where were we? What was the last question
15 before the break?

16 (Question read back.)

17 Q. What happened, Mr. Green, after he grabbed
18 your lower right arm?

19 A. I repeated my question, Why are you grabbing
20 and continuing to assault me?

21 Q. What document are you using to answer?

22 A. Excuse me?

23 Q. What document are you referring to to answer
24 your question?

1 MR. SPENCER: Objection. You can
2 answer.

3 A. What do you mean when you say "document"?

4 Q. What document are you referring to?

5 A. My statement.

6 Q. Which statement?

7 A. The statement that was taken for the incident.

8 Q. Okay. Where on your arm did he grab you?

9 A. Sort of here, kind of here, kind of down
10 toward the wrist, out here.

11 Q. Which arm did he use to grab your right arm?

12 A. I don't know which arm it was.

13 Q. What happened after you continued to ask him,
14 Why are you continuing to assault me?

15 A. He made the statement that he did not give me
16 permission to leave, that I was being
17 detained, and I had to show him some
18 identification.

19 Q. While he said all this, was his hand still on
20 you?

21 A. Yes.

22 Q. And at this point, while he was telling you
23 these things, were you facing him?

24 A. Sort of kind of turned in his direction, not

1 completely around.

2 Q. Was this on the sidewalk or on the parking
3 area?

4 A. This was kind of like off the sidewalk now,
5 kind of just like right into the street off
6 the sidewalk.

7 Q. So are you in the area where the cars park
8 now?

9 A. Yes.

10 Q. On West Newton?

11 A. Yes.

12 Q. Are there any cars near you, any parked cars?

13 A. Yeah, there were parked cars on the street but
14 not like close to me. I was able to begin to
15 walk across the street without going in
16 between any vehicles or anything.

17 Q. When this was going on, him asking you to show
18 him -- or I'm sorry. Strike that. That was a
19 mess.

20 When he's asking you to show ID and
21 telling you that you're detained, was there
22 anybody around in the vicinity?

23 A. Yeah, there were people around, I guess. The
24 whole situation, you know, got people's

1 attention. I wasn't really paying attention
2 where they were coming from but I could
3 clearly see there were people around.

4 Q. Were these people watching?

5 A. Yes, to my knowledge.

6 Q. Were these people in front of the 7-Eleven?

7 A. They were in all areas of the neighborhood.

8 It's a pretty busy intersection. Beauty
9 parlor for fingernails and manicures across
10 the street, laundromat. Just a lot of foot
11 traffic in that area.

12 Q. Could you hear anybody saying anything?

13 A. I couldn't, no. Just what Officer McCarthy
14 was.

15 Q. What happened after you were asked to show
16 some identification?

17 A. I told him that I was not going to give him
18 identification, and he replied that he was
19 placing me under arrest.

20 Q. Did you just refer to your statement from IA
21 again?

22 A. Yes.

23 Q. Why did you not give your ID to Officer
24 McCarthy?

1 A. Well, dealing with the entire situation, and
2 it's continuing to escalate, I no longer
3 entrusted my safety or liberties with the
4 officer.

5 Q. Did you have ID on you?

6 A. I did.

7 Q. Would that have been a driver's license?

8 A. Yes.

9 Q. When Officer McCarthy told you that you were
10 being placed under arrest, did he tell you for
11 what?

12 A. No.

13 Q. Was he still holding your right arm on your
14 wrist when he told you you were under arrest?

15 A. Yes. He never let go of my arm or wrist.

16 Q. So as soon as he grabbed your arm, he didn't
17 let go of it?

18 A. No.

19 Q. Until you were placed in handcuffs?

20 A. Well, he started to try and twist my arm
21 behind my back so I started turning in circles
22 to prevent him from subduing or hurting me and
23 I just, you know, kept asking him, Why did you
24 grab and assault me?

1 Q. After Officer McCarthy told you that you were
2 being placed under arrest, did he give you any
3 other commands?

4 A. No.

5 Q. Did he tell you to place your other hand
6 behind your back?

7 A. No.

8 Q. So Officer McCarthy had ahold of your arm
9 before telling you that you were under arrest?

10 A. Yes.

11 Q. While you were circling, did at any time you
12 use your free hand -- I guess it would be your
13 left hand -- to touch Officer McCarthy in any
14 way?

15 A. No.

16 Q. You didn't push him?

17 A. No.

18 Q. When you were circling and Officer McCarthy
19 had ahold of your right arm, what was your
20 intention at that point?

21 A. Well, again, my intentions were to make sure
22 that I could see what was going on and to
23 prevent him from harming me or subduing me.

24 Q. So you resisted the arrest?

1 MR. SPENCER: Objection.

2 A. No, I wouldn't say "resisted" arrest. I just
3 no longer entrusted my safety or liberties
4 with the officer.

5 Q. Fair to say that's not cooperating with the
6 officer?

7 MR. SPENCER: Objection.

8 A. I wouldn't say "not cooperating." I would
9 just say that he continued to escalate and
10 provoke a situation and that I no longer
11 entrusted my safety or my liberties with him.

12 Q. Fair to say that you didn't allow him to place
13 you under arrest?

14 MR. SPENCER: Objection.

15 A. Well, I have to repeat the same answer. I
16 just did not entrust him to, you know, do
17 whatever it was he was trying to do.

18 Q. So you were struggling with him?

19 MR. SPENCER: Objection.

20 A. I wouldn't say it was a struggle. I just was
21 protecting myself from being subdued and
22 protecting myself against what he was trying
23 to do to me.

24 Q. Did you intend to flee?

1 A. No. I didn't flee at any time or attempt to.
2 I didn't run. I didn't walk fast. I was just
3 doing what a normal person does. There was no
4 need for me to flee. There was no crime
5 committed by me.

6 Q. While you were circling, was this all right in
7 front of the 7-Eleven or did you, I guess,
8 migrate away?

9 A. This was a little migration away from the
10 front of the 7-Eleven and off the sidewalk and
11 a little bit into the street.

12 Q. While this was going on with Officer McCarthy
13 and you found yourselves in the street, were
14 you in the flow of traffic at any point?

15 A. We were getting into the flow of traffic.

16 Q. Were cars having to go around you at this
17 point?

18 A. Not to my recollection.

19 Q. Do you know if any cars passed you?

20 A. In the area that we were in, I don't.

21 Q. While this was going on, did you ever hear
22 Officer McCarthy on his radio?

23 A. No.

24 Q. So aside from him placing you under -- I'm

1 sorry, telling you that you were being placed
2 under arrest, he didn't say anything else to
3 you?

4 A. NO.

5 Q. Did any other officers arrive on the scene?

6 A. Yes. As I was circling I saw a patrol car
7 coming down Saint Botolph Street. The patrol
8 car pulled up into the intersection on West
9 Newton and Saint Botolph Street. Officer
10 McCarthy was still trying to twist my arm
11 behind my back, all the while I kept repeating
12 myself, Why are you grabbing and assaulting
13 me?

14 Q. Which direction was the cruiser headed on
15 Botolph? Was it towards your apartment or
16 away from your apartment?

17 A. It was coming down Saint Botolph Street from
18 Mass. Avenue.

19 Q. I don't know where that is. So was it --

20 A. It was coming from down this direction.

21 Q. Why don't you just write "cruiser" next to
22 this arrow so we know that's the direction the
23 cruiser came from.

(Witness complies.)

1 A. Okay.

2 Q. And D for defendant.

3 A. Okay.

4 Q. So we know that's --

5 (Witness complies.)

6 Q. Perfect. What happened when the cruiser
7 stopped?

8 A. The struggle went on for a while before the
9 three officers moved me over to the patrol
10 car. My chest was up against the back door.
11 My face was over the roof. They were
12 struggling to get my arms behind my back to
13 place me under arrest.

14 Once I was finally cuffed, Officer
15 McCarthy grabbed the collar of my jersey from
16 behind and slammed my head and face on the
17 roof of the car. I then stated to him, I'm
18 finally in handcuffs, and he grabbed me from
19 behind and slammed my head and face on the
20 car, assaulting me again. There was a female
21 officer there. I asked her, Was that
22 necessary? She said no.

23 I was transported to the police station
24 without any incidents or any problem and

1 pretty much, you know, that's when it ended.

2 Q. Let's break that down a little bit. How many
3 officers got out of the cruiser?

4 A. Two.

5 Q. Who was driving the cruiser, male or female?

6 A. I think it was a male.

7 Q. Do you know his name?

8 A. I don't.

9 Q. Can you describe him?

10 A. Not really.

11 Q. Was he tall, short?

12 A. I know he wasn't taller than me.

13 Q. Is he skinny or is he rotund?

14 A. Pretty decent size guy.

15 Q. What's his ethnicity?

16 A. White male.

17 Q. Was he wearing a uniform?

18 A. He was.

19 Q. What color was his uniform?

20 A. Blue.

21 Q. Was he wearing a hat?

22 A. No.

23 Q. You said he was operating the cruiser?

24 A. I think he was the one operating the cruiser,

1 yes.

2 Q. You said two police officers arrived on the
3 scene. Where did the other one come out of?

4 A. She was his passenger.

5 Q. In the cruiser, okay.

6 A. Yes.

7 Q. What is her height about?

8 A. I would probably say -- I don't know -- maybe
9 five six, five seven, off the top of my head.

10 Q. What's her ethnicity?

11 A. White female.

12 Q. Do you know her name?

13 A. I don't.

14 Q. Was she skinny? Was she rotund?

15 A. Slim.

16 Q. When these officers got out of the vehicle,
17 did they run over to you?

18 A. Not to my recollection, no.

19 Q. How did they arrive to where you were at once
20 they got out of the car?

21 A. I would say just kind of casually, you know,
22 moved to, you know, where we were, not in a
23 panic or in a rush.

24 Q. While -- I'm sorry. Strike that. Those two

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1 officers that got out of the cruiser, did they
2 at all attempt to direct traffic at this
3 intersection at that time?

4 A. Not to my knowledge, no.

5 Q. When the two officers arrived and they
6 approached you and Officer McCarthy, what did
7 they do, those two officers?

8 A. They assisted him in, you know, moving me to
9 the vehicle, you know, trying to, I guess,
10 pretty much get me in handcuffs.

11 Q. When those first two officers arrived and they
12 approached you, did they say anything to you?

13 A. No.

14 Q. Did they say anything to Officer McCarthy?

15 A. Not that I can recall.

16 Q. Did Officer McCarthy say anything to them?

17 A. Not that I can recall.

18 Q. Did either of them have handcuffs in their
19 hands as they approached you?

20 A. Not to my knowledge.

21 Q. When they were assisting Officer McCarthy in
22 attempting to get you into handcuffs, did they
23 place their hands on you?

24 A. Yes.

1 Q. Where did they touch you?

2 A. Kind of like just all over, you know, my upper
3 extremity area.

4 Q. When these two officers arrived, did you
5 continue to circle?

6 A. Yes.

7 Q. Did you say anything to these two officers?

8 A. No. I was just repeating to Officer McCarthy,
9 you know, why did he grab and just continue to
10 assault me.

11 Q. The other two officers -- you had your free
12 hand, your left hand?

13 A. Uh-huh.

14 Q. Did they grab your free hand?

15 A. Not that I can recall. Just in the context of
16 everything going on and, you know, me in
17 circles and him, you know, holding onto my
18 arm, I really, you know, couldn't tell.

19 Q. And how did those officers assist Officer
20 McCarthy in getting you into handcuffs?

21 A. Well, in circling we were kind of -- it was
22 kind of directing me towards the cruiser that
23 pulled into the intersection and, you know,
24 like I said, once again, when, you know, they

1 got me over to the cruiser, my chest, you
2 know, ended up at the back door, my face was
3 over the roof and, you know, they were just
4 struggling to, you know, get my arms behind my
5 back to put the cuffs on me and place me under
6 arrest.

7 Q. Did all three of the officers work to get you
8 to the cruiser? Did it require all three of
9 them?

10 A. Well, I really couldn't tell because it was
11 just -- we were just moving so I really
12 couldn't tell.

13 Q. Who pushed you up against the cruiser?

14 A. Well, I really wasn't pushed up against the
15 cruiser. I was just moved in that direction.
16 But where I ended up was, again, my chest at
17 the back door and my face was over the roof of
18 the cruiser.

19 Q. So you were restrained against the cruiser?

20 A. Well, I wouldn't really say restrained because
21 I wasn't forced up against the cruiser.

22 Q. Did you go there voluntarily?

23 A. Well, again, we were moving in circles so they
24 were directing me toward that vehicle.

1 Q. So when you were against the cruiser --

2 A. Uh-huh.

3 Q. -- who was behind you?

4 A. Basically all three of them were behind me,
5 sort of one directly, one on the left, one on
6 the right.

7 Q. Were they holding you against the cruiser?

8 A. Well, he had my arm and the other one was
9 here, the other one was there, so they were
10 just kind of like up against my body there.
11 Whether they were using their hands, their
12 shoulders or their chest, I couldn't tell you
13 that.

14 Q. Could you go anywhere at that point?

15 A. No.

16 Q. And if I just -- if I can summarize what you
17 said. You had one on both sides and one
18 behind you?

19 A. Uh-huh.

20 Q. Who was on your left when you were up against
21 the cruiser?

22 A. I think it was the female because I ended up
23 making that statement to her, looking to my
24 left, after I was placed in handcuffs and

1 Officer McCarthy slammed my head and face on
2 the roof of the car.

3 Q. Was the female officer that was on your left,
4 was she touching you?

5 A. I can't recall.

6 Q. Was she right next to you or was she farther
7 away?

8 A. She was right next to me.

9 Q. And the officer that was on your right, who
10 was that?

11 A. That was the other male officer.

12 Q. And was he touching you?

13 A. I really can't recall but he was very close,
14 pretty much the same distance and area that
15 the female officer was. I couldn't go
16 anywhere so...

17 Q. So I take it Officer McCarthy was directly
18 behind you?

19 A. Yes.

20 Q. And when you were up against the cruiser, were
21 both of your hands restrained?

22 A. They had my arms behind me.

23 Q. Who placed you in handcuffs?

24 A. I think it was Officer McCarthy.

1 Q. Are you sure?

2 A. I'm not sure.

3 Q. Did the person that placed you in handcuffs,
4 did they say anything to you as you were being
5 placed in handcuffs?

6 A. No.

7 Q. And that was at the back door of the cruiser?

8 A. Yes.

9 Q. Passenger's side or driver's side?

10 A. It was the driver's side.

11 Q. And so officer -- the female officer on your
12 left, she's closer to the trunk area?

13 A. No. She was closer to the driver's side door.

14 Q. How long did it take the officers once
15 everybody was on scene, the two officers that
16 arrived, how long did it take them
17 collectively to get you to the cruiser against
18 the back door?

19 A. I really couldn't recall or estimate the time.

20 Q. At what point were you placed in handcuffs?

21 MR. SPENCER: Objection.

22 A. I was placed in the handcuffs, again, once
23 they got me up to the cruiser and, you know,
24 again, my chest was up against the back door,

1 face was over the roof and, you know, they
2 finally got the cuffs on me.

3 Q. Do you know how much time passed from when you
4 were up against the cruiser to when you were
5 handcuffed?

6 A. I don't.

7 Q. When you were handcuffed, immediately
8 thereafter, did the officers still stay right
9 around you?

10 A. Yes. To my recollection, yes.

11 Q. So the female officer was still on your left,
12 the male officer was still on your right?

13 A. Yes.

14 Q. And Officer McCarthy was still behind you?

15 A. Yes.

16 Q. What happened immediately after you were
17 placed in handcuffs?

18 A. Officer McCarthy grabbed the collar of my
19 jersey and slammed my head and face on the
20 roof of the car.

21 Q. When this happened, was the female officer
22 still directly to your left?

23 A. Yes.

24 O. And was the male officer still directly to

1 your right?

2 A. Yes.

3 Q. When your head was slammed into the cruiser,
4 which direction were you looking?

5 A. Left.

6 Q. So you were looking at the female officer?

7 A. Yeah, sort of in this direction.

8 Q. And how do you know it was Officer McCarthy
9 that slammed your head into the cruiser?

10 A. Because I could sort of see and remembered
11 where he was behind me and I just could see
12 from the corner of my eye, you know, that he
13 grabbed me from back there and bam on top of
14 the roof.

15 Q. How do you know it wasn't the other officer?

16 MR. SPENCER: Objection.

17 Q. The male officer, how do you know it wasn't
18 the male officer?

19 A. The male officer was standing to my right
20 shoulder.

21 Q. And am I correct in saying that you said that
22 Officer McCarthy grabbed the collar of your
23 jersey and slammed your head?

24 A. Grabbed the collar of my jersey, yes.

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1 you, I can see Mr. Spencer, I can see a little
2 bit out the window, so peripheral vision.

3 Q. You said you were looking left?

4 A. Uh-huh.

5 Q. So you're saying while you were looking left
6 you could still see the officer on your right?

7 A. What I'm saying is that with my head turned, I
8 knew that Officer McCarthy was behind me, the
9 other male officer was on my right, the female
10 was on my left.

11 Q. While you were looking left -- that's the
12 direction you said you were looking just prior
13 to your head being slammed into the cruiser --
14 were you able to see the officer to your
15 right?

16 MR. SPENCER: Objection.

17 A. Yes, I could see the officer to my right
18 because my entire head was not completely
19 turned to the left.

20 Q. In which direction were you looking?

21 A. Sort of to the left.

22 Q. Could you see the officer's hands as your
23 jersey was grabbed?

24 A. Not to my recollection, no.